

AMENDED IN SENATE MARCH 10, 1999

SENATE BILL

No. 176

Introduced by Senator Knight

*(Coauthors: Assembly Members House, McClintock,
Runner, and Strickland)*

January 12, 1999

An act to amend Sections 48209.1 and 48209.16 of the Education Code, relating to school attendance.

LEGISLATIVE COUNSEL'S DIGEST

SB 176, as amended, Knight. School attendance.

(1) Existing law authorizes the governing board of any school district to admit pupils residing in another school district to attend any school in that district. Existing law authorizes school districts of residence to limit the number of pupils newly transferring out each year based upon the district's average daily attendance. Existing law credits the school district of choice, as to pupils admitted to the school district under this authority, with a corresponding increase in average daily attendance for state apportionment purposes. Existing law prohibits the school district of residence from adopting policies that block or discourage pupils from applying for a transfer and permits the parent or guardian of a pupil who is prohibited from transferring to appeal the decision to the county board of education. Existing law provides that the governing board of a school district may, but is not required to, accept interdistrict transfers, and requires a governing board that elects to accept transfers to adopt a resolution to ensure that pupils admitted under the policy are

selected through a random, unbiased process that prohibits an evaluation of whether or not the pupil should be enrolled based upon his or her academic or athletic performance. Existing law provides that either the pupil's school district of residence, upon notification of the pupil's acceptance to the school district of choice, or the school district of choice may prohibit the transfer of a pupil under this article or limit the number of pupils so transferred if the governing board of the district determines that the transfer would negatively impact the court-ordered desegregation plan of the district, the voluntary desegregation plan of the district that meets certain criteria or the racial and ethnic balance of the district.

Existing constitutional law prohibits the state from discriminating against, or granting preferential treatment to, an individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public education.

This bill would ~~delete the ability of~~ *provide that* the pupil's school district of residence ~~and~~ *or* the school district of choice ~~to~~ *may* prohibit the transfer of a pupil or limit the number of pupils transferred under these provisions, when the governing board of the district determines that the transfer would negatively impact the racial and ethnic balance of the district, *provided that the determination meets the constitutional prohibition against discriminating against, or granting preferential treatment to, an individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public education.*

(2) Under existing law, the provisions specified in (1) *relating to school attendance* become inoperative on July 1, 2000, and are repealed as of January 1, 2001.

This bill would instead provide that these provisions become inoperative on July 1, 2005, and are repealed as of January 1, 2006. By extending the appeal duties of the county board of education under these provisions, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of

mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 48209.1 of the Education Code is
2 amended to read:

3 48209.1. (a) The governing board of a school district
4 may accept interdistrict transfers. A school district that
5 receives an application for attendance under this article
6 is not required to admit pupils to its schools. If the
7 governing board elects to accept transfers as authorized
8 under this article, it shall, by resolution, elect to accept
9 transfer pupils, determine and adopt the number of
10 transfers it is willing to accept under this article, and
11 ensure that pupils admitted under the policy are selected
12 through a random, unbiased process that prohibits an
13 evaluation of whether or not the pupil should be enrolled
14 based upon his or her academic or athletic performance.
15 A pupil accepted for transfer shall be deemed to have
16 fulfilled the requirements of Section 48204.

17 (b) Either the pupil's school district of residence, upon
18 notification of the pupil's acceptance to the school district
19 of choice pursuant to subdivision (c) of Section 48209.9,
20 or the school district of choice may prohibit the transfer
21 of a pupil under this article or limit the number of pupils
22 so transferred if the governing board of the district
23 determines that the transfer would negatively impact
24 ~~either~~ any of the following:

25 (1) The court-ordered desegregation plan of the
26 district.

27 (2) The voluntary desegregation plan of the district
28 that meets the criteria of Section 42249.

1 (3) *The racial and ethnic balance of the district;*
2 *provided, however, that the determination meets the*
3 *requirements of Section 31 of Article I of the California*
4 *Constitution.*

5 (c) The school district of residence may not adopt
6 policies that in any way block or discourage pupils from
7 applying for transfer to another district.

8 SEC. 2. Section 48209.16 of the Education Code is
9 amended to read:

10 48209.16. This article shall become inoperative on July
11 1, 2005, and, as of January 1, 2006, is repealed, unless a later
12 enacted statute, which becomes effective on or before
13 January 1, 2006, deletes or extends the dates on which it
14 becomes inoperative and is repealed.

15 SEC. 3. Notwithstanding Section 17610 of the
16 Government Code, if the Commission on State Mandates
17 determines that this act contains costs mandated by the
18 state, reimbursement to local agencies and school
19 districts for those costs shall be made pursuant to Part 7
20 (commencing with Section 17500) of Division 4 of Title
21 2 of the Government Code. If the statewide cost of the
22 claim for reimbursement does not exceed one million
23 dollars (\$1,000,000), reimbursement shall be made from
24 the State Mandates Claims Fund.

25 Notwithstanding Section 17580 of the Government
26 Code, unless otherwise specified, the provisions of this act
27 shall become operative on the same date that the act
28 takes effect pursuant to the California Constitution.

